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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

EPIC GAMES, INC.

Plaintiff, Counter-defendant
v.

APPLE INC.,

Defendant, Counterclaimant

Case No. 4:20-cv-05640-YGR-TSH

**DECLARATION OF MARK A. PERRY IN
SUPPORT OF APPLE INC.'S STATEMENT
IN SUPPORT OF ADMINISTRATIVE
MOTION TO SEAL**

The Honorable Yvonne Gonzalez Rogers

1 I, Mark A. Perry, hereby declare as follows:

2 1. I am an attorney licensed to practice in the State of California, and a member of the Bar
3 of this Court. I am a partner at the law firm Weil, Gotshal & Manges LLP, counsel of record for Apple
4 Inc. (“Apple”) in this case. I am familiar with Apple’s treatment of highly proprietary and confidential
5 information based on my personal experience representing Apple. I have personal knowledge of the
6 facts stated below and, if called as a witness, would testify competently thereto. I submit this declaration
7 in support of Apple’s Statement in Support of Administrative Motion to Seal.¹

8 2. I am aware that the law of this Circuit allows information to be filed under seal for good
9 cause or in certain compelling circumstances. I also understand that courts routinely seal filings where
10 documents include a company’s trade secrets, internal codenames, confidential research and
11 development, personally identifiable information, or other commercially sensitive information. I
12 understand that this Court has broad latitude to prevent the public disclosure of these categories of
13 commercially sensitive information.

14 3. Apple operates in an intensely competitive environment. Apple has serious and
15 legitimate concerns that competitors will be quick to capitalize on any release of Apple’s highly sensitive
16 information in order to gain competitive advantage. As such, Apple takes extensive measures to protect
17 the confidentiality of its information.

18 4. Apple has carefully reviewed Epic Games, Inc.’s Administrative Motion to Consider
19 Whether Another Party’s Material Should Be Sealed Pursuant to Civil Local Rule 79-5 (“Epic’s
20 Motion”) (Dkt. 1325), and now proposes to partially seal information therein that, if disclosed, could
21 harm Apple and/or a third-party developer’s competitive business interests and violate Apple’s privilege
22 claims.

23 5. Apple seeks to partially seal Epic Games, Inc.’s Post-Hearing Findings of Fact (Dkt.
24

25
26 ¹ Courts in the Ninth Circuit routinely grant motions to seal based on declarations of counsel. *See*,
27 *e.g.*, *In re Apple Securities Litigation*, 19-cv-02033-YGR, Dkt. 223 (N.D. Cal.); *In re Qualcomm Litig.*,
No. 17-cv-00108-GPC, Dkt. 398-1 (S.D. Cal. Mar. 26, 2018); *Avago Techs. U.S. Inc. v. Iptronics Inc.*,
No. 10-cv-02863-EJD, Dkt. 544 (N.D. Cal. Apr. 3, 2015); *Cisco Sys., Inc. v. OpenTV Inc.*, No. 13-cv-
00282-EJD, Dkt. 76 (N.D. Cal. Oct. 8, 2013). If the Court deems this declaration insufficient, Apple
28 respectfully requests that it be permitted to file a further declaration supporting filing under seal.

1326) (“Epic’s Post-Hearing Findings”). Epic’s Post-Hearing Findings contain competitively sensitive, non-public information regarding Apple’s financial information and internal project codenames, which Apple intends to keep confidential. The financial information consists of actual Apple revenue figures, revenue projections and estimated losses, and developer cost estimates based on proprietary information. Public disclosure would reveal Apple’s internal business decision-making and sensitive financial data, which could be used by competitors to gain an unfair competitive advantage over Apple and/or affect Apple’s market position. Epic’s Post-Hearing Findings also contain the sensitive business information of a third-party developer which, if revealed, could impact its competitive standing. The business information consists of third-party developer user data. Epic’s Post-Hearing Findings also contain statements that reflect testimony Apple has moved to strike on the basis of attorney-client privilege which, if revealed, would invade Apple’s privilege (Dkt. 1328). Apple has narrowly-tailored its sealing request as to maximize the public’s access to court documents without jeopardizing Apple or the third-party developer’s business interests, or Apple’s privilege claims. The remainder of Epic’s Post-Hearing Findings remains unredacted.

6. Below is a chart detailing the portions of the document sealable for the reasons explained herein, as well as in Apple’s statement.

Portion of Document Sought to be Sealed	Document Title	Reason to Seal
Page 3, lines 1-3	Epic’s Post-Hearing Findings	Apple previously moved to strike as privileged. <i>See</i> Dkt. 1328.
Page 3, line 7	Epic’s Post-Hearing Findings	Reflects non-public Apple financial information
Page 5, lines 7-9	Epic’s Post-Hearing Findings	Apple previously moved to strike as privileged. <i>See</i> Dkt. 1328.
Page 5, lines 24-25	Epic’s Post-Hearing Findings	Reflects non-public Apple financial information
Page 6, lines 5-6	Epic’s Post-Hearing Findings	Apple previously moved to strike as privileged. <i>See</i> Dkt. 1328.

Portion of Document Sought to be Sealed	Document Title	Reason to Seal
Page 9, line 8	Epic's Post-Hearing Findings	Reflects non-public Apple project codenames
Page 11, line 13	Epic's Post-Hearing Findings	Reflects non-public Apple financial information
Page 11, line 15-16	Epic's Post-Hearing Findings	Reflects non-public Apple financial information
Page 12, line 4	Epic's Post-Hearing Findings	Reflects non-public Apple financial information
Page 12, line 5	Epic's Post-Hearing Findings	Reflects non-public Apple financial information
Page 13, lines 27-28	Epic's Post-Hearing Findings	Apple previously moved to strike as privileged. <i>See</i> Dkt. 1328.
Page 17, line 20	Epic's Post-Hearing Findings	Reflects non-public Apple financial information
Page 25, line 6	Epic's Post-Hearing Findings	Reflects non-public Apple project codenames
Page 25, line 9	Epic's Post-Hearing Findings	Reflects non-public Apple project codenames
Page 28, line 12	Epic's Post-Hearing Findings	Reflects non-public third-party financial information
Page 29, 13	Epic's Post-Hearing Findings	Reflects non-public Apple financial information

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 14th day of March 2025, in Washington, D.C.

1 Dated: March 14, 2025

Respectfully submitted,

2
3 By: /s/ Mark A. Perry

4 Mark A. Perry